REMARKS

Claims 1-10, 22-31, 43, 44 and 53-58 were pending in the present application. Claims 1, 5, 6, 22, 26, 27, 30, 43, 53 and 57 are amended herein. Accordingly, claims 1-10, 22-31, 43, 44 and 53-58 are currently pending. No new matter has been added. Applicant respectfully request reconsideration of the claims in view of the following remarks.

(1) The Office Action objected to Applicant's Figures 1 and 2, asserting that they are identical except for the numbers describing the sectors and antennas. The Office Action further asserted that Applicant should distinguish between the two figures or remove Figure 1 because it is not discussed in the specification.

Applicant has added the caption "PRIOR ART" to Figure 1 to assist in distinguishing Figure 1 from Figure 2. Applicant respectfully asserts that Figure 1 is described in the specification on page 1, line 15 through page 2, line 9. Applicant further asserts that Figure 1 is easily distinguishable from Figure when the above-referenced description of Figure 1 is compared with the description of Figure 2 on page 4, lines 14-22. Therefore, Figures 1 and 2 clearly are distinguishable from each other, and Applicant respectfully requests withdrawal of this objection.

(2) The Office Action objected to claim 30, asserting that the term R_k is not defined. Applicant has amended claim 30 as suggested by the Office Action, and respectfully requests withdrawal of this objection.

(3) The Office Action objected to claim 43 for informalities, asserting that the term "serving *the* one of the sectors" should be written "serving one of the sectors." Applicant has amended claim 43 to read "serving the *selected* one of the sectors," which has antecedent basis in the last element of claim 1. Applicant therefore respectfully requests withdrawal of this objection.

(4) The Office Action rejected claims 1-10, 43, 44, 53, 54 and 57 under 35 U.S.C. § 112, second paragraph as being indefinite.

The Office Action rejected claim 1 as indefinite because the preamble assertedly is not clear. Applicant has amended the preamble to recite a "method of determining capital investment in a wireless network." The word "transforming" has been removed.

The Office Action rejected claim 1 as indefinite because assertedly it is not clear whether the computer system or an operator is making the selection in the last element of the claim. Applicant respectfully traverses this rejection. The Office Action appears to be confusing claim scope with indefiniteness. Claim 1 recites "selecting one of the wireless network sectors for capital investment, the selecting based at least in part on the investment return per sector." The selecting element of claim 1 is written such that it does not require a specific entity perform the selecting. That either the computer system or an operator could perform the selecting does not make the selecting element indefinite. Furthermore, the function performed by this step is clearly and particularly described. Regarding the previous section 101 rejection of claim 1, *see* Office Action, p. 2-3 (Aug. 27, 2009), other elements of the claim already have been amended to ensure that the claim recites statutory subject matter. *See* Amendment, p. 2 (Nov. 23, 2009).

The Office Action also rejected claim 1 as indefinite because of the phrase "using [a/the] computer system, determining." As suggested by the Office Action, Applicant has amended the phrases in the claim to read "determining, using [a/the] computer system."

The Office Action rejected claims 53 and 57 as being indefinite. As suggested by the Office Action, Applicant has amended claims 53 and 57 to recite "[selecting/identifying] additional wireless network sectors for capital investment."

In view of the above, Applicant respectfully requests withdrawal of all section 112, paragraph two, rejections.

(5) The Office Action rejected claims 1, 4, 22, 25, 53, 54, 57 and 58 under 35 U.S.C. § 103(a) as being unpatentable over Adduci et al., U.S. Patent No. 7,343,334 ("Adduci") in view of Cossins et al., U.S. Publication No. 2003/0083073 ("Cossins") and Elliot, U.S. Patent No. 7,158,790 ("Elliot"). The Office Action rejected claims 2, 3, 5-10, 23, 24, 26-31, 43, 44, 55 and 56 under 35 U.S.C. § 103(a) as being unpatentable over Adduci in view of Cossins and Elliot, and further in view of various other references or AAPA. Applicant respectfully traverses these rejections.

Applicant has fully addressed the differences between independent claims 1 and 22 and the cited prior art in previous amendments. *See, e.g.*, Amendment Accompanying RCE, pp. 12-16 (April 20, 2010); Supplemental Amendment, pp. 12-14 (May 11, 2010). Applicant again asserts that "determining . . . an investment return per sector" is not taught or suggested by the cited prior art, and that the "per sector" limitation is not merely a statement of intended use.

In response to Applicant's previous arguments regarding intended use, the Office Action states

> that the statement of "determining an investment return per sector for one or more sectors" . . . as recited in claim 1 is merely a statement of intended use as discussed in Final Office action – page 5 – mailed 28 January 2010.
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> Examiner clarifies in that the "determining an investment return per sector for one or more of the sectors" is functionally equivalent to "determining an investment return" for anything. In addition, the fact that it is one or more sectors . . . is merely repeating of steps, and does not add patentable weight. As per *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960), the court held that mere duplication of parts has no patentable significance unless a new and unexpected result is produced.

Office Action, p. 3 (Aug. 3, 2010) (emphasis omitted).

As an initial matter, Applicant has amended claims 1 and 22 to further clarify the utility of determining investment return per sector for multiple sectors. In particular, claim 1, for example, recites determining "a service quality metric per sector for a first sector [and] for one or more other sectors in the wireless network," and determining "an investment return per sector for the first sector and each of the one or more other sectors." Thus Applicant's claims require a determination of multiple service quality metric values, as well as multiple investment return values, based on the number of sectors analyzed. Far from being a mere repetition of steps, the multiple investment return values provide the basis for performing the last element of claim 1, selecting one of the sectors "based at least in part on the investment return per sector." Without multiple investment return values, there would be no basis for the selection step to make a selection of one of the sectors.

Furthermore, claim 1's "determining . . . an investment return per sector" is far from being equivalent to "'determining an investment return' for anything." This element of claim 1 should not be interpreted in isolation, but in the context of its relationships with the other elements of claim 1. In particular, "determining . . . an investment return per sector" is based on

three specific and recited claim elements: the subscriber profit proxy for the plurality of subscribers, the number of minutes of use over the period of time for the one or more of the subscribers, and the service quality metric per sector in the wireless network. Thus the plain language of claim 1 clearly shows that determining an investment return per sector is not equivalent to determining an investment return for anything.

In response to Applicant's previous arguments regarding a lack of teaching in the prior art, the Office Action reiterates that the Examiner "interprets [Adduci's] market segment as inclusive of Applicants sectors within a geographic region in as much as it involves 'enhanced wireless services in the geographic region.'" Office Action, p. 3 (Aug. 3, 2010) (emphasis omitted). The Office Action also reiterates that "applying financial analysis to different geographic regions as indicative of Applicant's application to one or more of the sectors." *Id.* at p. 8.

Adduci simply does not teach or suggest determining investment return per sector for multiple sectors. Because Adduci does not make this determination, it is not possible for Adduci to teach or suggest selecting one of the sectors for capital investment based at least in part on the investment return per sector. Applicant has already addressed in a previous amendment the significant differences between Adduci's provisioning of wireless services in a geographic region versus claim 1's selecting of a sector for capital investment based on an investment return per sector for multiple sectors. *See* Amendment Accompanying RCE, pp. 13-14 (April 20, 2010). Applicant further asserts that the above-quoted amendments to the independent claims further highlight these differences between the claims and the cited prior art.

Accordingly, Applicant respectfully asserts that independent claims 1 and 22 are patentable over the cited prior art.

Claims 2-10, 43, 44, 53 and 54 depend from claim 1, and claims 23-31 and 55-58 depend from claim 22, and add further limitations to their respective independent claims. Applicant respectfully submits that the dependent claims are allowable by reason of depending from an allowable claim as well as for adding new limitations.

(6) In view of the above, Applicant submits that the claims are in condition for allowance. No new matter has been added by this amendment. If the Examiner should have any questions, please contact Applicant's Attorney, Brian A. Carlson, at 972-732-1001. The Commissioner is hereby authorized to charge any fees due in connection with this filing, or credit any overpayment, to Deposit Account No. 50-1065.

Respectfully submitted,

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